

AMENDMENT

In the claims

Please cancel claim 3 without prejudice.

Please enter amended claims 1 and 4 as follows:

A1
1(amended). An aqueous acrylic emulsion polymer comprising, as copolymerized units, 70 to 99.5% by weight, based on dry polymer weight, monoethylenically unsaturated nonionic (meth)acrylic monomer and from 0.3 to 10% by weight, based on dry polymer weight, monoethylenically unsaturated acid monomer, wherein at least 40% by weight, based on dry polymer weight, of said emulsion polymer is formed by redox emulsion polymerization at a pH of from 4 to 8 in the presence of 0.001 to 0.05 moles chain transfer agent per kg dry polymer weight and a redox reaction catalyzing metal salt.

A2
3(amended). An aqueous coating composition comprising an aqueous acrylic emulsion polymer, said polymer comprising, as copolymerized units, 70 to 99.5% by weight, based on dry polymer weight, monoethylenically unsaturated nonionic (meth)acrylic monomer and from 0.3 to 10% by weight, based on dry polymer weight, monoethylenically unsaturated acid monomer, wherein at least 40% by weight, based on dry polymer weight, of said emulsion polymer is formed by redox emulsion polymerization at a pH of from 4 to 8 in the presence of 0.001 to 0.05 moles chain transfer agent per kg dry polymer weight and a redox reaction catalyzing metal salt.

RESTRICTION REQUIREMENT

Restriction to one of the following inventions was required under 35 USC 121.

- I. Claims 1-8, drawn to an aqueous acrylic emulsion polymer
- II. Claims 9-12, drawn to a method of coating

The examiner argues that the two groups of claims are distinct inventions because the composition of claims 1-8 can be used in powder coating operation or a process in which the composition is extruded into a free-standing sheet; applicants challenge that characterization on the basis that the aqueous composition as claimed is an aqueous dispersion and would need to be dried either prior to or concurrent with use in a powder coating operation or extrusion, materially different processes which are neither cited by the examiner or pointed out as known in the art. The examiner also submits that the two groups have acquired a separate status in the art as shown by their different classification. Applicant respectfully traverses.

35 U.S.C. 121 states that the Commissioner may require restriction if two or more "independent and distinct" inventions are claimed in one application. Referring to the Manual of Patent Examining Procedure, Chapter 802.01, "the term "independent" (i.e. not dependent) means that there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect, for example: (1) species under a genus which species are not usable together as disclosed or (2) process and apparatus incapable of being used in practicing the process." Applicant respectfully submits that it is not justified to make such a requirement in the present application. Claims 1-8 are directed to an aqueous acrylic emulsion copolymer and claims 9-12 are directed to a method for forming dry coatings on or in a substrate with the aqueous coating composition. Thus, criteria for two or more "independent and distinct" inventions has not been